

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 CHARLES N. BELSSNER,

4 Plaintiff

5 v.

6 LINDEN GITTINGS, et al.,

7 Defendants

Case No.: 2:19-cv-02034-APG-VCF

**Order (1) Accepting Report and
Recommendation, (2) Dismissing This
Case, and (3) Deeming Plaintiff a
Vexatious Litigant**

[ECF Nos. 1, 3, 4]

9 On January 13, 2020, Magistrate Judge Ferenbach recommended that I (1) dismiss plaintiff
10 Charles Belssner's complaint, (2) deny Belssner's application to proceed *in forma pauperis*,
11 (3) deem Belssner a vexatious litigant, and (4) require Belssner to seek leave of court before filing
12 future cases. ECF No. 3. Belssner filed an objection. ECF No. 5.

13 I have conducted a de novo review of the issues set forth in Judge Ferenbach's Report and
14 Recommendation under 28 U.S.C. § 636(b)(1) and Local Rule IB 3-2. *U.S. v. Reyna-Tapia*, 328
15 F.3d 1114, 1121 (9th Cir. 2003) ("the district judge must review the magistrate judge's findings
16 and recommendations de novo *if objection is made*" (emphasis in original)). The Report and
17 Recommendation sets forth the proper legal analysis and the factual basis for the decision, and I
18 accept and adopt it as my own.

19 Judge Ferenbach's report "cautious[ly] review[s] the pertinent circumstances," compiles
20 "an adequate record for review," and makes appropriate "substantive findings about the frivolous
21 or harassing nature of [Belssner's] litigation." *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047,
22 1057 (9th Cir. 2007) (citing 28 U.S.C. § 1651(a)). Additionally, his recommendations are
23 "narrowly tailored to closely fit the specific vice encountered." *Id.* (quoting *De Long v.*

1 *Hennessey*, 912 F.2d 1144, 1148 (9th Cir. 1990)). I therefore adopt Judge Ferenbach's report and
2 accept his recommendations in full.

3 I THEREFORE ORDER that Judge Ferenbach's Report and Recommendation (**ECF No.**
4 **3) is accepted** and Belssner's objection (**ECF No. 5) is overruled.**

5 I FURTHER ORDER that Belssner's "complaint and request for injunction" (**ECF No.**
6 **4) is dismissed with prejudice.**

7 I FURTHER ORDER that Belssner's application to proceed *in forma pauperis* (**ECF No.**
8 **1) is denied as moot.**

9 I FURTHER ORDER that plaintiff Charles N. Belssner is deemed a vexatious litigant.

10 I FURTHER ORDER that plaintiff Charles N. Belssner is required to seek leave of the
11 Court before filing any additional actions in the District of Nevada.

12 To file any papers, Belssner must apply for leave to do so, and the proposed lawsuit shall
13 bear the caption "Application Seeking Leave to File." If Belssner wishes to file in the unofficial
14 northern division of the District of Nevada, he shall mail a copy of the proposed suit to: Clerk's
15 Office, United States District Court, District of Nevada, 400 South Virginia Street, Reno, Nevada
16 89501. If Belssner wishes to file in the unofficial southern division of the District of Nevada, he
17 shall mail a copy of the proposed suit to: Clerk's Office, United States District Court, District of
18 Nevada, 333 Las Vegas Blvd. South Las Vegas, Nevada 89101. The Application shall be
19 supported by a declaration under oath by Belssner stating: (1) that the matters asserted in the new
20 complaint or papers have never been raised and disposed of on the merits by any court; (2) that
21 the claim or claims are not frivolous or made in bad faith; and (3) that he has conducted a
22 reasonable investigation of the facts, and his investigation supports his claim or claims. A copy
23 of this Order shall be attached to any such application.

1 The failure to fully comply with this Order will be sufficient grounds for denial of the
2 application. In such circumstances, Belssner will not be allowed to proceed and his proposed
3 filing shall be returned to him. If Belssner makes the required showing, the Court will enter the
4 appropriate order and will allow him to proceed.

5 DATED this 19th day of March, 2020.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE